

Title	Economic Litigation: Technical Changes to Forms <i>Case Questionnaire</i> and <i>Request for Statement of Witnesses and Evidence</i>
Summary	Proposed technical revisions to the optional <i>Case Questionnaire</i> (form 982(a)(21)) and <i>Request for Statement of Witnesses and Evidence</i> (form 982(a)(22)) would amend the titles and text to clarify that the forms are for optional use in limited civil cases in the superior courts.
Source	Civil and Small Claims Advisory Committee
Staff	Cara Vonk, (415) 865-7669, cara.vonk@jud.ca.gov
Discussion	<p>Municipal courts were unified with the superior court in each county to become a single superior court. Persons representing themselves in an unlimited civil case are not adequately informed by looking at the <i>Case Questionnaire</i> and <i>Request for Statement of Witnesses and Evidence</i> forms that they are designed for optional use under economic litigation in limited civil cases only.</p> <p>Staff received a call from a self-represented plaintiff who used the <i>Case Questionnaire</i> form in an unlimited civil case believing that it was the appropriate form to use in advancing his civil case. He stated that opposing counsel thanked him for providing so much information about the plaintiff's case, and refused to complete and return the defendant's <i>Case Questionnaire</i> form because it was not required for unlimited civil cases. Plaintiff found the form on the California Courts Web site and did not realize that the form is to be used under economic litigation for limited civil cases only. The only clue on the form is a reference to Code of Civil Procedure section 93 in tiny letters on the bottom right-hand side of the form.</p> <p>Code of Civil Procedure section 91 states that "the provisions of this article [Article 2—Economic Litigation for Limited Civil Cases] apply to every limited civil case." Section 93 gives the plaintiff the option to serve a case questionnaire. The council adopted form 982(a)(21) to implement this section. The form notes under the instructions that "The purpose of the case questionnaire is to help the parties settle their differences without spending a lot of money." However, nowhere on the form does it indicate that it should be used in limited civil cases only.</p> <p>The <i>Request for Statement of Witnesses and Evidence</i> (form 982(a)(22)) provides a similar pitfall. Although the form references</p>

Code of Civil Procedure section 96, it also does not indicate that the form is optional and that it should be used under economic litigation in limited civil cases only. There is no comparable procedure under the general discovery sections, such as under Code of Civil Procedure section 2031 (inspection of documents, etc.) and section 2034 (exchange of information concerning expert witnesses).

Staff reviewed the *Form Interrogatories—Economic Litigation* (form FI-129), just revised effective January 1, 2002, and determined that it does not need to be revised. The instructions state “These interrogatories are designed for optional use by parties under economic litigation in limited civil cases.” They go on to note, “However, these interrogatories also may be used in unlimited civil cases.” Therefore the form interrogatories do not need to be revised.

By amending the titles and text to clarify that the forms 982(a)(21) and 982(a)(22) are for optional use in limited civil cases, self-represented parties will be guided in the proper use of the forms. The term “economic litigation” was omitted from the title of the forms because limited civil cases are automatically subject to economic litigation provisions of the code.

Because the forms were last amended in 1996 and 1983 respectively, the committee would be interested in receiving comment on any other changes to the forms that might be required or suggested.

Attachments

DRAFT-5

SUPERIOR COURT OF CALIFORNIA, COUNTY OF

982(a)(21)

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

CASE QUESTIONNAIRE—FOR LIMITED CIVIL CASES

Requesting Party (Name):

Responding Party (Name):

—INSTRUCTIONS—

- A. The purpose of the case questionnaire is to help the parties settle their differences without spending a lot of money. This is accomplished by exchanging information about the case early in the lawsuit. The exchange of case questionnaires may be started only by a plaintiff (or cross-complainant) in a limited civil case. The case questionnaire is optional.
- B. Instructions for plaintiffs (and cross-complainants)**
1. Under Code of Civil Procedure section 93, a plaintiff (or cross-complainant) *may* serve a *completed* case questionnaire and a blank questionnaire *with a complaint (or cross-complaint)*.
 2. This is the only way you can require defendants (or cross-defendants) to serve you with a completed case questionnaire.
- C. Instructions for defendants (and cross-defendants)**
1. If you have been served with a completed case questionnaire by a plaintiff (or cross-complainant), then you *must* fill in the blank case questionnaire. Your completed case questionnaire must be served on the requesting plaintiff (or cross-complainant) *with your answer to the complaint (or cross-complaint)*.
 2. **THIS IS NOT AN ANSWER OR RESPONSE TO THE COMPLAINT.**
- D. Instructions for all parties**
1. **ALL QUESTIONS REFER TO THE INCIDENT OR AGREEMENT IN THIS LAWSUIT ONLY.**
 2. Answer each question. If a question is not applicable, answer "NA."
 3. Your answers are not limited to your personal knowledge, but you are required to furnish information available to you or anyone acting on your behalf, whether you are a plaintiff, defendant, cross-complainant, or cross-defendant.
 4. Type or *legibly* print your answer below each question. If you cannot completely answer a question in the space provided on the case questionnaire, check the "attachment" box and put the number of the question and the complete answer on an attached sheet of paper. You should *not* put part of an answer on the case questionnaire and part on the attachment. You may put more than one answer on each attached page.
 5. When you have completed the case questionnaire, sign the verification and serve the original.
 6. You may compel compliance with these requirements under Code of Civil Procedure section 93.
 7. **DO NOT FILE THIS CASE QUESTIONNAIRE WITH THE COURT.**

—DO NOT FILE WITH THE COURT—

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

—QUESTIONS—

1. FOR ALL CASES

a. State your name and street address.

b. State your current business name and street address, type of business entity, and your title.

c. Describe in detail your claims or defenses and the facts on which they are based, giving relevant dates.

☐ See attachment for answer number 1c.

d. State the name, street address, and telephone number of each person who has knowledge of facts relating to this lawsuit and specify his or her area of knowledge.

☐ See attachment for answer number 1d.

e. Describe each document or photograph that relates to the issues or facts. You are encouraged to attach a copy of each. For each that you have described but not attached, state the name, street address, and telephone number of each person who has it.

☐ See attachment for answer number 1e.

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1. f. Describe each item of physical evidence that relates to the issues and facts, give its location, and state the name, street address, and telephone number of each person who has it.

☐ See attachment for answer number 1f.

- g. State the name and street address of each insurance company and the number of each policy that may cover you in whole or part for the damages claimed.

☐ See attachment for answer number 1g.

2. FOR PERSONAL INJURY OR PROPERTY DAMAGE CASES

- a. Describe each injury or illness that you received and your present complaints about each.

☐ See attachment for answer number 2a.

- b. State the name, street address, and telephone number of each physician, dentist, or other health care provider who treated or examined you, the type of treatment, the dates of treatment, and the charges by each to date.

☐ See attachment for answer number 2b.

- c. Itemize the medical expenses you anticipate in the

☐ See attachment for answer number 2c.

- d. Itemize your loss of income to date, give the name and street address of each source, and show how the loss is computed.

☐ See attachment for answer number 2d.

PLAINTIFF (Name):	CASE NUMBER:
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2. e. Itemize the loss of income you anticipate in the future, give the name and street address of each source, and show how the loss is computed.

☐ See attachment for answer number 2e.

f. Itemize your property damage and state the amount or attach an itemized bill or estimate.

☐ See attachment for answer number 2f.

g. Describe each other item of damage or cost that you claim and state the amount.

☐ See attachment for answer number 2g.

3. FOR CASES BASED ON AGREEMENTS

a. In addition to your answer to 1e, state all the terms and give the date of any part of the agreement that is not in writing.

☐ See attachment for answer number 3a.

b. Describe each item of damage or cost you claim, state the amount, and show how it is computed.

☐ See attachment for answer number 3b.

VERIFICATION

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name and Address</i>): <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> TELEPHONE NO.: E-MAIL ADDRESS (<i>Optional</i>): ATTORNEY FOR (<i>Name</i>): </div> <div style="width: 45%;"> FAX NO. (<i>Optional</i>): </div> </div>	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
REQUEST FOR STATEMENT OF WITNESSES AND EVIDENCE— FOR LIMITED CIVIL CASES Requesting Party (<i>name</i>): Responding Party (<i>name</i>):	CASE NUMBER:

Under Code of Civil Procedure section 96, you are requested to serve on the undersigned, within 20 days, a statement of:

1. The names and street addresses of witnesses you intend to call at trial (except for any individual who is a party to this action).
2. A description of each document that you intend to offer at trial.
Attach a copy of each document available to you.
3. A description of each photograph and other physical evidence you intend to offer at trial.

Witnesses and evidence that will be used only for impeachment need not be included.

YOU WILL NOT BE PERMITTED TO CALL ANY WITNESS OR INTRODUCE ANY EVIDENCE NOT INCLUDED IN YOUR RESPONSE TO THIS REQUEST, EXCEPT AS OTHERWISE PROVIDED BY LAW.

Date:

(TYPED OR PRINTED NAME)



(SIGNATURE OF PARTY OR ATTORNEY)